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In re Application of HERZ et al
U.S. Application No.: 10/521,358
PCT Application No.: PCT/EP03/07653
Int. Filing Date: 15 July 2003
Priority Date Claimed: 16 July 2002
Attorney Docket No.: 87305-0044
For: SAMPLE TREATMENT STATION

DECISION

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 July 2005.

BACKGROUND

On 15 July 2003, applicant filed international application PCT/EP03/07653, which claimed priority of an earlier Germany application filed 16 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 22 January 2004. The thirty-month period for paying the basic national fee in the United States expired on 16 January 2005.

On 14 January 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/EP03/07653 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 July 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



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